

## OFFICE OF THE ATTORNEY GENERAL



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STATE OF ALABAMA

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Honorable Roy Johnson  
Speaker Pro-Tem  
House of Representatives  
State Capitol  
Montgomery, Alabama 36130

Boards of Education - Teachers  
- Leave - Sick Leave Bank

The prevailing rate referred to  
in § 16-22-9(d)(3) is the  
salary rate of the teacher  
owing the sick leave.

Any debts to sick leave bank  
which remain uncollected after  
due diligence become a loss to  
the sick leave bank.

Dear Representative Johnson:

We are in receipt of your request for an opinion from the  
Attorney General on the interpretation of § 16-22-9(d)(3).  
This section establishes the authority for boards of  
education to allow sick leave banks for their employees.  
Section 16-22-9(d)(3), the section in question, reads as  
follows:

(d)(3) Upon the resignation or other  
termination of an employee who has an  
outstanding loan of sick leave days, said  
value of loan shall be deducted from the  
final paycheck and at the prevailing  
rate.

It is our opinion that the legislative intent of this

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section was for the board of education to recover the expense it incurs from the absence of an individual. The Board of Education, in the absence of a teacher on sick leave, incurs the expense of paying the teacher and the expense of paying a substitute teacher. It is the opinion of the Attorney General that the prevailing rate is the salary rate of the teacher using the sick leave.

In addition to the above, you also inquired as to liability should an employee be terminated who owes sick leave to the bank and said debt is noncollectible. The act provides that deduction shall be made from the final check. Should a situation arise where that provision does not satisfy the debt, it is our opinion that the local school board who has the legal responsibility under § 16-22-9(c) for the accounting and administration of the program must exercise due diligence and appropriate procedures to collect such debt. Should the debt remain outstanding, it becomes a loss to the sick leave bank, and neither the superintendent nor the board of education nor the members thereof would be responsible for the repayment.

We hope this adequately addresses your inquiry. If we may be of further service, please call on us.

Sincerely,

CHARLES A. GRADDICK

ATTORNEY GENERAL

By-



PEGGY SCHMITZ

ASSISTANT ATTORNEY GENERAL

CAG:PS:fm